

Notice of Allowability

Application No.

09/493,480

Examiner

Anne L. Holleran

Applicant(s)

CHEEVER ET AL.

Art Unit

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 6/26/2006.
2. ☒ The allowed claim(s) is/are 98,99,101-109,111-121,124-133,135-143 and 145-166.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 7/17/2001.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 6/26/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20060824.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Virginia Campen on August 29, 2006.

The application has been amended as follows:

In the claims:

Claims 100, 110, 134 and 144 were canceled.

Claim 98. A viral vector comprising [a] the nucleic acid molecule of claim 117.

Claim 108. A viral vector comprising [a] the nucleic acid molecule of claim 118.

Claim 113. A method of making a protein, the method comprising the steps of:

- (a) introducing into a cell an expression vector comprising [a] the nucleic acid molecule according to claims 117 or 118;
- (b) culturing the transfected cell; and
- (c) purifying the expressed protein.

Claim 117. An isolated nucleic acid molecule encoding a polypeptide comprising:

(a) [an] the amino acid sequence of SEQ ID NO: 3; and

(b) [an] the amino acid sequence of SEQ ID NO: 4;

wherein (a) and (b) are joined by an amino acid linker sequence of no more than 50 amino acids; and wherein said polypeptide does not comprise a HER-2/Neu transmembrane domain.

Claim 118. An isolated nucleic acid molecule encoding a polypeptide comprising:

(a) [an] the amino acid sequence of SEQ ID NO: 3; and

(b) [an] the amino acid sequence of SEQ ID NO:5;

wherein (a) and (b) are joined by an amino acid linker sequence of no more than 50 amino acids; and wherein said polypeptide does not comprise a HER-2/Neu transmembrane domain.

Claims 132. A viral vector comprising [a] the nucleic acid molecule of claim 119.

Claim 142. A viral vector comprising [a] the nucleic acid molecule of claim 120.

Claim 151. A method of making a protein, the method comprising the steps of:

(a) introducing into a cell an expression vector comprising [a] the nucleic acid molecule according to claims 119 or 120;

(b) culturing the transfected cell; and

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(c) purifying the expressed protein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Holleran, whose telephone number is (571) 272-0833. The examiner can normally be reached on Monday through Friday from 9:30 am to 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, can be reached on (571) 272-0832. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Official Fax number for Group 1600 is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Anne L. Holleran
Patent Examiner
August 24, 2006


LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER